

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARY J. BROWN, et al.,

Plaintiffs,

Civil No. 00-74926
Hon. John Feikens

v.

MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY,

Defendant/Third-Party Plaintiff,

v.

COUNTY OF WAYNE,

Third-Party Defendant.

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OPINION AND ORDER

Defendant and third-party plaintiff Michigan Municipal Risk Management Authority (MMRMA) moves for summary judgment.¹ In part, MMRMA argues that plaintiffs have no standing to bring suit. Standing is "the threshold question in every

¹MMRMA filed its Motion for Summary Judgment on 3 December 2003. Under Local Rule 7.1(d)(1)(B), a response must be filed within 21 days after service of the motion. Because the 21st day fell on a federal holiday and this Court was closed on 26 December 2003, a response to the motion was due on 29 December 04. To date, no such response has been received from plaintiffs and this Court has not been able to contact plaintiffs. Therefore, I decide this motion without the benefit of a response from plaintiffs.

federal case." Warth v. Seldin, 422 U.S. 490 at 498 (1975). This Court has no power to adjudicate a case unless the plaintiffs have standing to bring the suit. Whitmore v. Arkansas, 495 U.S. 149, 155 (1990). See also Bennet v. Spear, 520 U.S. 154, 162 (1997); Lujan v. Defenders of Wildlife, 504 U.S. 555, 559 (1992). Therefore, I consider the question of standing before examining any other issues.

FACTUAL BACKGROUND

Plaintiffs are residents of Allen Park and allege basement flooding they experienced on Sept. 11-12, 2000 is the responsibility of the City of Allen Park. Plaintiffs sued MMRMA, alleging that defendant insured the City of Allen Park and plaintiffs relied on that insurance coverage but were wrongly denied compensation. MMRMA is a group self-insurance pool of municipal corporations to which the City of Allen Park belongs.

ANALYSIS

In order to have standing to sue, a plaintiff must "assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." Allstate Ins. Co. v. Thrifty Rent-A-Car Systems, Inc., 249 F.3d 450, 456 (6th Cir. 2001). Under Michigan law, an injured party who is not named as an insured in the insurance contract is considered at best an incidental beneficiary and therefore has no standing to sue. Schafer Oil Co. v. Universal Underwriters Ins. Co., 820 F.Supp. 321, 324-5 (E.D. Mich. 1993). In addition, the Michigan Supreme Court has held that the public at large is too large a group to be able to successfully assert that they were

intended to receive benefits under a contract and therefore have standing to enforce an insurance policy. Schmalfeldt v. North Pointe Ins. Co., 469 Mich. 422, 670 N.W.2d 561 (2003).

Therefore, because plaintiffs assert the rights of a third party and not their own rights, I find the plaintiffs have no standing to bring a case against MMRMA.

CONCLUSION

Defendant and third-party plaintiff MMRMA's Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

John Feikens
United States District Judge

Date: _____